IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION(REVIEW) NO. 15 OF 2004

Mr. Wencesslay Alex D'Silva,
major, married, landlord,
resident of Fortavaddo,
Nerul, Bardez, Goa. ... Applicant
(Original Respondent No.1)

versus

1. Mr. Porbuko Uma Mandrekar,

2. Mr. Nyaheshwar Uma Mandrekar,

3. Mr. Chandra Uma Mandrekar,

all major of age,
all residents of House No.7,
Tintowaddo, Reis Magos,
Nerul, Bardez, Goa. ... Respondents
(Original Appellants)

Mr. A. F. Diniz, Advocate for the Applicant/Original Respondent No.1.

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, Advocate for the Respondents/Original Appellants.

CORAM: N. A. BRITTO, J.

DATE : 10TH FEBRUARY,2005

ORAL ORDER

Heard Mr. A. F. Diniz, the learned Counsel of the Applicant/Original Respondent No.1 in Second Appeal No.56/2000 and Mr. S. D. Lotlikar, the learned Senior Counsel of the Respondents/Original Appellants. Respondent No.1/Plaintiff in the Original Civil Suit by application dated 13-12-2004 seeks the review of the Judgment of this Court dated 29-10-2004 and 4-11-2004 in Second Appeal No.56/2000. Mr. Diniz, the learned Counsel has referred to para 28 of the said Judgment and has submitted that the entire Judgment proceeds on the footing that the Original Defendant Nos.1(a) and (b) were not served in the present appeal and their names were subsequently deleted when in fact the factual position was that the appeal against them was dismissed by Order of this Court dated 20-2-2004. Mr. Diniz, therefore, submits that this is a fit case for review relying on the decision of the Supreme Court in the case of **Awadh Bihari Singh and others** v. **State of Bihar and others(**1993 Supp. (4) SCC 594) wherein it is observed that "the expression, "for any other sufficient reason" in the clause(O.41 R.1 C.P.C.) has been given an expanded meaning and a decree or order passed for mis-apprehension of true state of circumstances has been held to be sufficient ground to exercise the power". Mr. Diniz, has also placed reliance on an unreported decision of this Court dated 10-8-2001 in Civil Application(Review) No.16/2001 in Appeal From Order No.74/2000.

2. On the other hand, Mr. S. D. Lotlikar, the learned Senior Counsel of the Respondents/Original Appellants has submitted that the Judgment does not proceed on the said factual observation alone and that in para 28 the reasons for the decision have been given.

3. In my view, the Judgment of this Court dated 29-10-2004/4-11-2004 does not proceed on the said observation alone which has been extracted by learned Advocate Mr. Diniz from para 28 of the Judgment. In para 13 of the Judgment, it is stated that "consequently the appeal was dismissed on or about 20-2-2004 against the said respondent nos.2 and 3. In my view, the question is not one of correcting a mistake. Whether one Judgment or another had to be followed is essentially a matter of views and review jurisdiction is meant to correct mistakes and not views. In view of the above, the application of review is dismissed.

N. A. BRITTO, J.

RD.